

# HOUSE BILL 1104

R4

8lr2620

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By: **Delegate Stein**

Introduced and read first time: February 7, 2018

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers – Consumer Data Protection**

3 FOR the purpose of requiring vehicle manufacturers, distributors, and factory branches, or  
4 their agents, to allow vehicle dealers to furnish certain consumer data in a certain  
5 manner; prohibiting manufacturers, distributors, and factory branches, or their  
6 agents, from requiring a dealer to grant access to the dealer's data management  
7 systems; authorizing manufacturers, distributors, and factory branches, or their  
8 agents, to access data management systems with express written consent of the  
9 dealer; establishing standards for express written consent for access to a dealer's  
10 data management system; requiring manufacturers, distributors, and factory  
11 branches, or their agents, to provide certain indemnification to dealers for a violation  
12 of this Act; prohibiting manufacturers, distributors, and factory branches from  
13 taking adverse action against dealers that refuse to grant access to certain data;  
14 authorizing manufacturers, distributors, and factory branches to require certain  
15 data from dealers regarding warranty repair or certain vehicle sales; defining certain  
16 terms; and generally relating to consumer data protection by vehicle manufacturers  
17 and dealers.

18 BY adding to

19 Article – Transportation

20 Section 15–207.1

21 Annotated Code of Maryland

22 (2012 Replacement Volume and 2017 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
24 That the Laws of Maryland read as follows:

25 **Article – Transportation**

26 **15–207.1.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
2 **INDICATED.**

3           **(2) “CONSUMER DATA” MEANS NONPUBLIC PERSONAL**  
4 **INFORMATION, AS DEFINED IN 15 U.S.C. § 6809(4), COLLECTED BY A DEALER AND**  
5 **PROVIDED BY THE DEALER DIRECTLY TO A MANUFACTURER, DISTRIBUTOR, OR**  
6 **FACTORY BRANCH, OR ITS AGENT.**

7           **(3) “DATA MANAGEMENT SYSTEM” MEANS A COMPUTER HARDWARE**  
8 **OR SOFTWARE SYSTEM THAT:**

9                   **(I) IS OWNED, LEASED, OR LICENSED BY A DEALER, INCLUDING**  
10 **A SYSTEM OF WEB-BASED APPLICATIONS;**

11                   **(II) IS LOCATED AT THE DEALERSHIP OR HOSTED REMOTELY;**  
12 **AND**

13                   **(III) STORES AND PROVIDES ACCESS TO CONSUMER DATA**  
14 **COLLECTED AND STORED BY THE DEALER.**

15           **(B) NOTWITHSTANDING THE PROVISIONS OF ANY FRANCHISE AGREEMENT,**  
16 **A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT:**

17                   **(1) SHALL ALLOW A DEALER TO FURNISH CONSUMER DATA IN A**  
18 **WIDELY ACCEPTED FILE FORMAT, SUCH AS COMMA-SEPARATED VALUES, AND**  
19 **THROUGH A THIRD-PARTY VENDOR SELECTED BY THE DEALER;**

20                   **(2) MAY NOT REQUIRE THAT A DEALER GRANT THE MANUFACTURER,**  
21 **DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT, ACCESS TO THE DEALER’S DATA**  
22 **MANAGEMENT SYSTEM TO OBTAIN CONSUMER DATA;**

23                   **(3) MAY ACCESS OR OBTAIN CONSUMER DATA DIRECTLY FROM A**  
24 **DEALER’S DATA MANAGEMENT SYSTEM ONLY WITH THE EXPRESS WRITTEN**  
25 **CONSENT OF THE DEALER; AND**

26                   **(4) MAY NOT TAKE ANY ADVERSE ACTION AGAINST A DEALER FOR**  
27 **REFUSING TO GRANT ACCESS TO THE DEALER’S DATA MANAGEMENT SYSTEM;**

28                   **(5) MAY REQUIRE THAT A DEALER PROVIDE CONSUMER DATA OR**  
29 **TRANSACTIONAL DATA THAT PERTAINS TO A WARRANTY REPAIR OR THE SALE OF A**  
30 **NEW OR CERTIFIED PRE-OWNED VEHICLE; AND**

1           **(6) SHALL INDEMNIFY THE DEALER FOR ANY THIRD-PARTY CLAIMS**  
2 **ASSERTED AGAINST OR DAMAGES INCURRED BY THE DEALER TO THE EXTENT THE**  
3 **CLAIMS OF DAMAGES ARE CAUSED BY ACCESS TO OR USE OR DISCLOSURE OF**  
4 **CONSUMER DATA IN VIOLATION OF THIS SECTION BY THE MANUFACTURER,**  
5 **DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT, OR A THIRD PARTY TO WHICH**  
6 **THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, OR ITS AGENT, HAS**  
7 **PROVIDED THE CONSUMER DATA.**

8           **(C) WRITTEN CONSENT UNDER SUBSECTION (B)(3) OF THIS SECTION:**

9                   **(1) SHALL BE SEPARATE FROM THE DEALER FRANCHISE**  
10 **AGREEMENT;**

11                   **(2) SHALL BE EXECUTED BY THE DEALER; AND**

12                   **(3) MAY BE WITHDRAWN BY THE DEALER ON 30 DAYS' WRITTEN**  
13 **NOTICE TO THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH.**

14           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2018.